



State of South Carolina

Office of the Governor

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GOVERNOR

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May 15, 2007

The Honorable Andre Bauer
President of the Senate
State House, 1st Floor East Wing
Columbia, SC 29202

Dear Mr. President and Members of the Senate:

I am hereby vetoing and returning without my approval S. 348, R-41.

I have met and spoken with Chandler's parents several times over the last two years regarding the background of this legislation and their position on the bill, and I am genuinely sorry for the profound loss they have experienced.

In the course of these discussions, I have come to admire Steve and Pamela Saylor for honoring Chandler by setting up a scholarship fund and working on this legislation. However, as commendable as their work is, I find myself in the same position on this bill that I took last year. I am still concerned that this legislation will bring about the unintended consequences of growing government, impinging on private property rights, and diminishing parental responsibility.

The legislation hinges on the notion that *all* children between the ages of 6-15 must complete and receive certification for completing a safety course before operating an ATV. The course is a four-hour class, typically taught in a single afternoon. While the course is useful and I would encourage riders to take it, we should not use the law to make parents think that their children will somehow know how to operate their ATV's safely.

Furthermore, this mandate would impose a hidden tax on families, the consequences of which would be deeply felt. Some supporters of this legislation claim that the safety courses are free of charge. This is true for the purchase of *most new* ATVs, but not on ATVs already owned or purchased used. Thus, for families across South Carolina who already own an ATV, this legislation would require them to pay for the course before some members of the family could use the ATV they already own. According to the ATV Safety Institute, there is a \$75 per child charge for the course and \$125 per adult. So, under this legislation, a family of four that already owns an ATV would be required to spend \$150 for a safety course and up to \$400 if the parents

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wanted to take the course with them. Simply put, we don't believe the government should be allowed to exercise this kind of power over citizens' use of their own property on their own land.

I am also concerned about the practical issue of enforcement. The bill requires certification, along with wearing a helmet and goggles in operation of an ATV. While the thinking behind this part of the legislation may be sound, there will likely never be enough will or manpower to put agents in every corner of the state to enforce it. In fact, the probable cause portion of this bill may make it difficult to enforce in a variety of cases.

Proponents of this bill argue that setting these common sense standards for ATV use is similar to the boater safety laws that were passed in 1999. Those laws applied to activity on public waters, not private property. Moreover, the state mandates motorcycle helmets for riders under the age of 21—again as part of the public, not private, roadways. On the other hand, neither moped riders nor bicyclists are mandated to wear helmets by state law. The difference between bicycling accidents and ATV accidents is telling: in the case of bicycling, an injury or death occurs every 16.8 *minutes* versus roughly every 12.5 *hours* for an ATV. According to estimates, 90 percent of all injuries sustained by children on ATVs happen because they are riding an ATV designed for an adult—a consideration this legislation would do little to address.

Finally, there should be a practical application of the law when it comes to experience. When South Carolina enacted a mandate for hunters' safety, current youth hunters were "grandfathered," a provision implicitly acknowledging that experience was more valuable than a training course. The present legislation ignores the fact, for example, that a 14-year-old who has been riding an ATV since age 8 has far more experience than any one-day safety course could provide.

Today, law enforcement officers can cite an individual, regardless of age, for operating a motorized vehicle in a reckless or negligent manner in state parks, forests, or wildlife areas. However, even in the best of circumstances, tragic accidents occur.

At the same time, I believe there should be a balance between using our law enforcement powers to increase safety against the private property rights and parental responsibility. While Chandler's story is a tragic one, I respectfully and regretfully believe that the benefit to the public falls short of the threshold that warrants an erosion of these core values.

For these reasons, I am vetoing S. 348, R-41, and returning it without my approval.

Sincerely,



Mark Sanford